

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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Patricia M. Colburn,  
Plaintiff

v.

Richard Cappiello,  
Defendant.

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Civil Action No. 04-11784 MLW

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Patricia M. Colburn,  
Plaintiff

v.

IBEW Local 2133, et al,  
Defendants.

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Civil Action No. 04-11859 MLW

**JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(D)**

Counsel for the parties to the above-captioned matters conferred on February 25, 2005, and now file this joint statement pursuant to Local Rule 16.1(D) and the Court's Notice of Scheduling Conference dated January 21, 2005.

**I. Proposed Pretrial Schedule:**

A. Discovery

Phased discovery is necessary in this case, given the Defendants' pending Motions to Dismiss. As grounds, the Parties state that, if successful, the Defendants' respective Motions to Dismiss will be dispositive of all issues addressed by the Plaintiffs' complaint, negating the necessity of discovery in this case. Therefore, engaging in discovery prior to the Court's ruling on the Motions to Dismiss would only serve to unnecessarily increase the expense of this litigation to the Defendants. Further, the Plaintiff's claims are not prejudiced by the Defendants' request given the early stage of this litigation.

The Parties have agreed to exchange initial disclosures pursuant to F.R.C.P. 26(a)(1)(A)-(D) and Local Rule 26.1(B) by March 18, 2005. Further, the Parties agree to defer the commencement of any further discovery until this court has ruled upon the Defendants' pending Motions to Dismiss. Discovery shall close six months from the date of this Court's Order on the Defendants' Motions to Dismiss.

B. Motions

The parties propose that any dispositive motions shall be filed no later than eight months after this Court's Order on the Defendants' Motions to Dismiss.

C. Final pretrial conference and trial dates are to be scheduled by the Court.

II. **Trial By Magistrate Judge**

The parties do consent to trial by a Magistrate Judge.

III. **Certifications**

The parties' certifications pursuant to Local Rule 16.1(D)(3) are being filed separately by the respective parties.

IV. **Settlement Proposal**

No written settlement demand was provided by the Plaintiff to the Defendants in accordance with Local Rule 16.1(C). Plaintiff has made a verbal demand of \$100,000,000.00 on each of the Defendants' counsel. The demand has been rejected by the Defendants.

Respectfully submitted,

Richard Cappiello and Miles Calvey,  
By their attorneys,

s/ Nicole Horberg Decter  
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Date: March 11, 2005